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12
13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF WASHINGTON

15 UNITED STATES OF AMERICA,

16
17 Plaintiff,

18
19 vs.

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21 RONALD CRAIG ILG,

22
23 Defendant.

Case No. 2:21-cr-00049-WFN

**REPLY IN SUPPORT OF
DEFENDANT'S MOTION FOR
RELEASE**

With Oral Argument:
June 11, 2021 at 2:30 pm

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26 COMES NOW, Defendant Ronald Craig Ilg, MD ("Dr. Ilg"), by and
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28 through his attorneys of record, and hereby submits the following Reply in
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30 Support of Defendant's Motion for Release pursuant to the Bail Reform Act, 18
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32 U.S.C. § 3141, *et seq.*

1 **A. The Alleged Weight of the Evidence Against the Accused is the**
2 **Least Important Factor of the Court’s Analysis.**

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4 The Government repeatedly argues that Dr. Ilg should not be released
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6 based upon the alleged weight of the evidence against Dr. Ilg. (*See, e.g., United*
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8 *States’ Resp.* at 5 (“The offense required careful planning, involved a number of
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10 messages over the course of several weeks, and involved the transfer of
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12 approximately \$50,000.”).) However, the Ninth Circuit has repeatedly stated
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14 that the weight of the evidence against the accused is the least important factor
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16 of the Court’s analysis. *See, e.g., United States v. Motamedi*, 767 F.2d 1403,
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18 1408 (9th Cir. 1985) (“the weight of the evidence is the least important of the
19
20 various factors”).

21 **B. Dr. Ilg’s Alleged Suicide Attempt Does Not Constitute Evidence of**
22 **Guilt or Demonstrate a Flight Risk.**

23 The Government argues that “suicide is a form of flight and, as such, is
24
25 admissible as circumstantial evidence of consciousness of guilt.” (*United*
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27 *States’ Resp.* at 7.) The Government cites to *United States v. Cody*, 498 F.3d
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29 582 (6th Cir. 2007); *Tug Raven v. Trexler*, 419 F.2d 536 (4th Cir. 1969); and
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31 *United States v. Workman*, 680 Fed. Appx. 699 (10th Cir. 2017) in support of its
32
argument. (*See United States’ Resp* at 7-8.) However, these cases do not

1 support the conclusion that the Court should consider Dr. Ilg’s suicide attempt in
2
3 the release analysis.

4
5 In *Cody*, the Sixth Circuit held “that suicidal ideations and/or attempts may
6
7 be admissible as relevant evidence of consciousness of guilt, but only after being
8
9 screened through typical Rule 403 balancing in accordance with this court’s
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11 jurisprudence on the admissibility of flight evidence.” *Cody*, 498 F.3d at 592.
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13 Additionally, *Cody* did not address pretrial release or flight risk. *See id.*
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15 Similarly, *Tug Raven* not only does not address pretrial release, but is not even a
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17 criminal case. *See Tug Raven*, 419 F.2d at 543. Finally, *Workman* is
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19 distinguishable as the Tenth Circuit explicitly indicated: “we might view the
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21 question differently if the district court considered *only* Mr. Workman's suicidal
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23 ideation, but it also considered ‘Mr. Workman's lack of contacts with the
24
25 community [and] the fact that he does not have a non-custodial place to live.’”
26
27 *Workman*, 680 Fed. Appx. at 703 (italics in original).

28 As such, “suicide risk, standing alone,” is not “sufficiently concrete and
29
30 unmitigable to warrant flight-based detention.” *United States v. Comberger*,
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32 2021 WL 1725516, at *2–3 (E.D. Ky. 2021) (unpublished)¹. Additionally, the

¹ Offered for persuasive purposes only.

1 United States’ argument that Dr. Ilg’s suicide attempt is consciousness of guilt is
2
3 contrary to the Psychological Evaluation of Alexander Patterson, Psy.D.

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5 **C. The Proposed Safety Plan is the Least Restrictive Alternative.**

6 Under the Bail Reform Act, a presumption of release exists and the Court is
7
8 required to impose the least restrictive alternatives. *See, e.g., United States v.*
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10 *Rangel*, 318 F. Supp. 3d 1212, 1216 (E.D. Wash. 2018) (“The BRA dictates that
11
12 a defendant is entitled to pretrial release unless a judicial officer judge finds that
13
14 ‘no condition or combination of conditions will reasonably assure the
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16 appearance of the person as required and the safety of any other person and the
17
18 community.’”); *accord United States v. Santos–Flores*, 794 F.3d 1088, 1090
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20 (9th Cir. 2015) (“Only in rare cases should release be denied, and doubts
21
22 regarding the propriety of pretrial release are to be resolved in favor of the
23
24 defendant.”).

25 The Government argues “both the psychological assessment and the safety
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27 plan fail to address compelling evidence Defendant remains a risk to himself and
28
29 others.” (United States’ Resp. at 4-5.) However, the Forensic Psychological
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31 Evaluation of Alexander Patterson, Psy.D explicitly concludes that “there is
32
insufficient evidence to suggest that Dr. Ilg is a significant risk for suicide at the

1 current time” and “Dr. Ilg does not currently meet criteria for a psychiatric
2 illness.” Besides identifying inherent caveats to any type of psychological
3 evaluation, the Government does not offer concrete psychological evidence or
4 any expert of its own to rebut Dr. Patterson’s conclusion(s).
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8 Dr. Patterson proposes a seven-portion safety plan. This includes, but is
9 not limited to, no contact with the charged victim and “WITNESS 1,” ongoing
10 medical care with a psychotherapist, and prohibits access to weapons. Not only
11 is this plan consistent with 18 U.S.C. § 3142(c)(1)(B), but it is the least
12 restrictive alternative available. The Court also may impose a substantial cash
13 bail, extensive ongoing monitoring, and the surrender of Dr. Ilg’s passport.
14 Practically speaking, release is required for Dr. Ilg to assist in the preparation of
15 his defense for trial.
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22 Furthermore, the Government argues that Dr. Ilg should not have contact
23 with his young son based upon alleged evidence that “reflects a recklessness and
24 a disregard for social norms.” (United States’ Resp. at 10.) However, Dr. Ilg
25 has a constitutional right to the relationship with his biological child. *See United*
26 *States v. Mercado*, 777 F.3d 532, 539 (1st Cir. 2015) (“Supervised release
27 conditions that unduly restrict a defendant’s contract with his own minor
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1 children may spark concerns related to the constitutional right of familial
2 association.”). Any restriction on contact between Dr. Ilg and his young son is
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4
5 unwarranted based upon the crime for which Dr. Ilg is charged, which was not a
6
7 crime against children and did not involve minors.

8
9 **CONCLUSION**

10 Based upon the foregoing, Dr. Ilg respectfully requests that this Court grant
11
12 release him from custody pending trial in this matter.

13
14 RESPECTFULLY SUBMITTED this 10th day of June, 2021.

15
16 ETTER, McMAHON, LAMBERSON,
17 VAN WERT & ORESKOVICH, P.C.
18

19 By: /s/ Carl J. Oreskovich

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of June, 2021, I electronically filed the forgoing document with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the attorneys of record in this matter.

DATED this 10th day of June, 2021.

By: /s/ Carl J. Oreskovich